Education Relations Commission

Annual Report
1986-1987

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Ontario

Education Relations Commission

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To: The Members of the Legislative Assembly
Province of Ontario

ANNUAL REPORT
1986-87

Dear Members:

I have the honour to present the Twelfth Annual Report of the Education Relations Commission, which covers the period from September 1, 1986 to August 31, 1987.

Bryan M. Downie
Chairman
Education Relations Commission

August 31, 1987

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OVERVIEW

STATUS OF THE NEGOTIATION PROCESS

Negotiations under the jurisdiction of the E.R.C. have been, and continue to be, in a very healthy state. Over time, in the majority of situations, the parties have been able to reach agreement without any third party intervention. Also, there is no evidence to suggest that the parties are finding it more difficult to reach agreement and the parties are not utilizing third party intervention to an increasing degree.

Negotiations in 1986-87 required extensive, though not unusually high, E.R.C. assistance. Fact finders were appointed in 42.1 percent of the negotiation situations — up slightly from the previous reporting year. In only 35.3 percent of the cases, however, was it necessary to actually release the fact finder's report to the parties.

In examining the figures of E.R.C. assistance, it is important to note that, while Bill 100 was enacted in 1975, collective bargaining in the first three years was under the control of the Federal Government's Anti-Inflation Program. During those years salary increases were directly determined by Anti-Inflation Board formula. Therefore, fact finding was of reduced value to the parties in 1976-77 and 1977-1978 and, not surprisingly, in those years there were fewer fact finders' reports released to the parties (see Table 4, page 12). In other words, the figures on the number of fact finders actually utilized up to the 1978-79 negotiation round probably are not representative.

Since 1978, the number of fact finders appointed relative to the total number of negotiations taking place has ranged from 30 per cent to 60 per cent. The average over the period, excluding 1983-84 when there were no negotiations, is 45 per cent. Therefore, the 1986-87 experience when fact finders were appointed in 42 per cent of the cases does not represent an upward shift from past experience.

In the reporting year, mediators were appointed in 34 percent of the cases. This represents an increase over the previous reporting period but this, too, is in line with the general experience since the enactment of Bill 100. Also of significance is the fact that, as revealed in Table 8 (page 15), the parties reached agreement on their own, i.e. without a fact finder **or** mediator, in the majority of cases.

It is also worth noting that the number of two-year and three-year agreements reached during the reporting year was extremely high (see Table 15; page 26). This, coupled with the high settlement rate to-date in 1987, augurs well for the 1987-88 round. That is, there clearly has been a lower rate of third party intervention thus far in 1987 and this is likely to continue for the remainder of the next reporting year.

Overall it is fair to conclude that the negotiation process in this sector closely parallels the process in the private sector in that there is a high degree of voluntary dispute resolution and genuine give-and-take negotiations. Labour relations experts have often testified to the desirability of this type of outcome — an outcome often not achieved in public sector bargaining.

Despite the above, reports from the field indicate the fact finding process needs to be improved and fact finder appointments, at least to some extent, need to be reduced. Also, a recurring problem is the lengthy nature of the negotiation process in many cases. Commission staff continue to wrestle with these problems.

TEACHER STRIKES

There were six strikes during the reporting year. This statistic, too, is in line with past experience. Moreover, it should be weighed against the fact that there were close to 200 sets of negotiations during the period. The number of negotiations which were settled **without** sanctions compares very favourably with other Canadian sectors. With the exception of the strike by secondary school teachers at the Dryden Board of Education, all of the strikes were of relatively short duration. The strike at the Dryden Board lasted 33 school days and was resolved with intensive E.R.C. assistance.

The Commission has a duty under Section 60(1)(h) of Bill 100 to advise the Lieutenant Governor-in-Council when, in the opinion of the Commission, the continuance of a sanction will place in **jeopardy** the successful completion of the students' courses of study. None of the strikes in the reporting year resulted in a jeopardy determination being sent by the Commission to the Lieutenant Governor-in-Council.

While strikes are an unhappy experience for all concerned, labour relations experts have noted many times over that, in order to have effective negotiations and a harmonious labour relations system, the parties should have the option of exercising a strike or lockout to break negotiation impasses. To serve this role the sanction option must be a meaningful one, i.e., not subject to **premature** government intervention.

Moreover, one of the purposes of the **School Boards and Teachers Collective Negotiations Act** is the furthering of harmonious relations between boards and teachers. Therefore, in order to ensure that this statutory purpose is met, a Commission policy has been to impress that, when there is a strike, the responsibility for reaching resolution rests with the local parties. The E.R.C. supplies its best mediators to such situations and at the same time the Commission carefully considers the impact of the strike on the students' courses of study. For the above reasons, however, the Commission has resisted premature intervention under section 60(1)(h). **During the past ten years, we have advised on jeopardy in just three cases.**

The above policy has resulted in some difficult situations. The longest total withdrawal of services by teachers occurred in Sudbury in 1979. The strike by secondary school teachers lasted almost three months. While this was most unfortunate and is often pointed to when arguing against lengthy sanctions, it should be stressed that a strike of the above duration has been extremely rare. Since the **School Boards and Teachers Collective Negotiations Act** was enacted there have been 2,251 sets of negotiations. Sanctions have been exercised in only 2 percent of the cases. In only 1 percent of the cases have teacher strikes (i.e., a total withdrawal of services) exceeded one month. **In short, lengthy teacher strikes have been rare.**

Also, it is worth noting that after the parties go through a long sanction they do not repeat this experience. On the contrary, the teacher/school board relationship generally improves because they have jointly worked out the terms of **their** agreement and have learned important lessons from the situation.

Most importantly, these types of events, though rare, have made it clear to all the parties under Bill 100 that, if they mismanage their negotiations and relationships, they will face the consequences of a breakdown and that these consequences cannot be shifted to other institutions. As noted, the E.R.C. has tried to make it clear to the local parties that **they** have the responsibility to resolve their own disputes. It is sometimes overlooked that the parties in Sudbury reached their own agreement with the assistance of the E.R.C. and the Minister of Education. The strike was not ended through legislation. That fact has not been lost on other parties in Ontario education.

The healthy state of negotiations reported above is due, at least in part, to the fact that the Commission has allowed lenghty sanctions to occur. The Commission has followed this policy, not in the expectation or hope that such sanctions will be exercised but, on the contrary, because their possibility reduces the **total** number of sanctions which occur and ensures that bona fide negotiations take place. Also, to ensure that sanctions are rarely exercised, the Commission continues to promote its services with the parties and continues to recruit and appoint competent third parties. For example, during the reporting year the Commission continued to offer, and make improvements in, a preventive mediation program in order to induce more positive attitudes between the parties and improve teacher/school board relationships (see pages 35-37). **The Commission's policy, then, emphasizes local responsibility in dispute resolution but with an emphasis, too, on the extensive provision of third party services.**

OMBUDSMAN'S REPORT

During the reporting year the Legislature's Standing Committee on General Government conducted hearings into the operation of the **School Boards and Teachers Collective Negotiations Act.** In the hearings the Commission's actions with respect to jeopardy were scrutinized and in some cases criticized. Obviously, the issue of jeopardy, and

specifically when and how the Commission makes a jeopardy determination, is critically important to the operation of Bill 100 and is often misunderstood. In this regard, the Ombudsman's Report, which was released during the reporting year, is of relevance because the subject of that investigation was the E.R.C.'s actions during a lengthy teachers' strike.

The Ombudsman's report was concerned with a strike by secondary school teachers which had lasted over **two months** at the Grey County Board of Education. During the strike an organization of parents was formed under the title of Grey County Parents for Education. The Chairman of the group filed a complaint against the Education Relations Commission with the Ontario Ombudsman— Mr. Daniel Hill. In his report dated October 30, 1986 the Ombudsman set forth the basis of the complaint:

> ...[T]he Grey County Parents for Education, contacted this office in November of 1985 to bring to my attention the parents' dissatisfaction with the continuation of the Grey County teachers' strike. Notwithstanding the efforts of the parents, the strike was then in its eighth week and it was the contention of the parents group that the Education Relations Commission had failed to do its job in advising the Minister of Education that the students were in jeopardy of not successfully completing their courses of study for the school year. The parents therefore requested that this office investigate the actions of the Education Relations Commission in this matter.
>
> ....Briefly, the contentions expressed were that the Education Relations Commission had acted unreasonably in its failure to recognize that the students' successful completion of their courses of study was in jeopardy and had therefore failed to perform its duty of so advising the Lieutenant Governor-in-Council. In addition, the parents contended the Education Relations Commission had unreasonably failed to maintain a constant awareness of the status of negotiations between the teachers and the school board.

The Commission cooperated fully with the Ombudsman and opened all of its files to the investigator assigned by the Ombudsman's office. After an extremely detailed investigation and a thorough examination of the facts, **the Ombudsman in his final report found no support for the contentions against the Commission.** He concluded:

> While I completely understand and appreciate the concerns demonstrated by the parents in this case, the available information demonstrates, in my opinion, that the Education Relations Commission exercised its duties in a most responsible manner and were constantly aware of the negotiations in order to make an informed decision respecting the aspects of jeopardy.

The Commission has followed the same procedures and exercised its duties in a similar manner in all other strike situations.

BARGAINING STRUCTURE - ROMAN CATHOLIC SCHOOL BOARDS

The most significant development during the **previous** reporting year was the passage of the **Education Amendment Act,** 1986 (Bill 30) . The provisions of Bill 30 extend full funding to Roman Catholic Separate School Boards who elect to perform the duties of a secondary school board by passing a by-law which is subject to the approval of the Minister of Education. As reported last year, Bill 30 is likely to have a notable impact on collective negotiations in both Roman Catholic school boards and boards of education. For example, Bill 30 has both financial and job security implications for both sectors and, as a consequence, it has collective bargaining ramifications across the province.

Bill 30 also has raised issues concerning bargaining structure in Roman Catholic school boards. In May of 1986 a complaint of failure to bargain in good faith was filed with the Education Relations Commission by the Cochrane-Iroquois Falls District Roman Catholic Separate School Board against L'Association des Enseignants Franco-Ontariens (AEFO). The Branch Affiliate of AEFO had sent to the School Board a notice of its intent to negotiate separately for elementary and secondary school teachers. It was the Branch Affiliate's desire to conclude separate collective agreements at each level as is the practice at boards of education. The School Board refused to negotiate on this basis and insisted on one set of negotiations to cover both elementary and secondary school teachers. The Commission's determination upheld the position of AEFO.

On February 6, 1987 the Hamilton-Wentworth Unit of the Ontario English Catholic Teachers' Association (OECTA) and the Hamilton-Wentworth Unit of L'Association des Enseignants Franco-Ontariens (AEFO) filed a complaint of failure to bargain in good faith against the Hamilton-Wentworth Roman Catholic School Board. On February 9, 1987 the Ontario English Catholic Teachers' Association Hamilton High Unit filed a similar complaint against the Hamilton-Wentworth Roman Catholic School Board. The complaints were based on the allegation that the Board had refused to negotiate separately with secondary school teachers and with elementary school teachers but insisted on joint negotiations covering both groups based on a two-tier proposal which was rejected by both the secondary and elementary school teachers. The complaints were in response to the position taken by the Hamilton-Wentworth Roman Catholic School Board as to the effect of Bill 30.

The requests with respect to the Hamilton-Wentworth Roman Catholic School Board for determinations under section 60(1)(f) of the **School Boards and Teachers Collective Negotiations Act** raised the identical question of statutory interpretation which was decided by the Commission in the Cochrane-Iroquois Falls case. The request did not indicate that any facts were in dispute.

Given the nature of the requests, and in accordance with its rules of procedure, the Commission decided to make its determination solely on the basis of written submissions and not to convene an oral hearing. Because the disposition of the requests was of significance to other groups, the Commission also decided to afford the opportunity to interveners to make written representations as to the effect of the provisions of Bill 30 on collective bargaining structure.

The Commission made its determination on May 21, 1987. The determination included the following:

> As we found in Cochrane-Iroquois Falls, Bill 30 does create a new entity, viz., a **Roman Catholic School Board.** Such an entity clearly has been created. It is specifically provided for in the **Education Act.** It also is clear that **only** a Roman Catholic School Board can provide secondary school education under the provisions of Bill 30. Section 136(c) is specific and unambiguous on this point....
>
> This brings us to the **Negotiations Act** and the definition of a "board" under our home statute. The **Negotiations Act** is a labour relations statute and it has a decidedly different purpose than the **Education Act,** and is to be interpreted with a view to furthering harmonious relations between boards and teachers. In this regard we are of the view that a Roman Catholic School Board is a secondary school board and thus a "board" within the meaning of our statute. We note that a Roman Catholic school board was created **specifically** to perform the duties of a secondary school board. In this light, and to the same effect as Cochrane-Iroquois Falls, we find that for the **Negotiations Act** a Roman Catholic School Board is a secondary school board for secondary school purposes within the meaning of s.l(c). For the **Negotiations Act,** we find there is also a Roman Catholic Separate School Board for elementary school purposes. Or, alternatively, and to the same effect, for the **Negotiations Act** a Roman Catholic School Board acts in the capacity of a secondary school board for secondary school purposes and in the capacity of a Roman Catholic separate school board for elementary school purposes. In either case, O.E.C.T.A. may undertake separate elementary-secondary negotiations at the respondent board.

On June 10, 1987 the Commission was advised that the Hamilton-Wentworth Roman Catholic School Board was commencing an Application for Judicial Review of the determination.

RESEARCH SERVICES

During the reporting year, the Commission made further improvements to its data and information services. Staff in Research Services began rebuilding the computerized data system to incorporate new advances in artificial intelligence and expert advisory systems. This work has been completed and users now have direct access to E.R.C. data and no longer are dependent on the E.R.C. for basic computer programming support. This allows all users, even those without computer skills, equal access to E.R.C. data.

Those who wish to explore trends and relationships in the data can rely on a unique menu driven and interactive "data analysis advisor". This leads users through the analytic process and provides extensive support and guidance on appropriate statistical techniques and methodologies. The system automatically generates a variety of graphical and tabular displays to assist the user in visualizing relationships.

We believe it is the most thorough, useful and timely information system for collective bargaining in North America. A very important side benefit has been that the new system has generated cooperative ventures and joint projects between the E.R.C. and other organizations falling under the jurisdiction of the **School Boards and Teachers Collective Negotiations Act.**

FIELD SERVICES

The Commission continues to attempt to recruit the most able third parties in the Province. During the reporting year, the Commission funded a mediation workshop for women. The purpose of the workshop was threefold:

(1) to expand the E.R.C.'s roster with capable female third parties to undertake future mediation assignments;

(2) to provide a unique opportunity for women to be trained in the field of mediation; and

(3) to discuss possible and/or potential areas of difficulty peculiar to women in a still predominantly male field.

The twenty-three women who were in attendance as participants rated the workshop as highly successful and helpful. A follow-up seminar is planned for 1987-88.

PERSONNEL CHANGES

The Commission will be expanding its information services. To this end, in August 1987, the Commission hired Ms. Tracy Patterson as Research Assistant. Ms. Patterson holds a Bachelor of Arts in Political Science and has worked with the Ontario Public School Teachers' Federation in the capacity of Executive Assistant, Research.

I THE COMMISSION - MEMBERS AND ORGANIZATIONAL STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor-in-Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie, first appointed Chairman of the Commission on November 1, 1979, was reappointed for a second term on October 31, 1981, and to third and fourth terms on October 31, 1985 and October 31, 1986 respectively. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982 and was reappointed for a second term on December 22, 1985 and to a third term on December 22, 1986. Ghislaine A. Connors was appointed a Commissioner in March of 1986, John I. Zeiler in March of 1986 and Jane E. Scott in December of 1986. Ghislaine Connors resigned from the above position in November 1986 because of her election to the French Language Education Council. To replace her, William John McNeil was appointed Commissioner in April of 1987. A biographical sketch of each of the Commissioners is contained in Appendix A.

The Commission has a permanent staff of 17 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre or more than seventy individuals who are appointed on a contractual basis as third-party neutrals. This arrangement has allowed the Commission to attract and utilize some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided in Figure 1.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

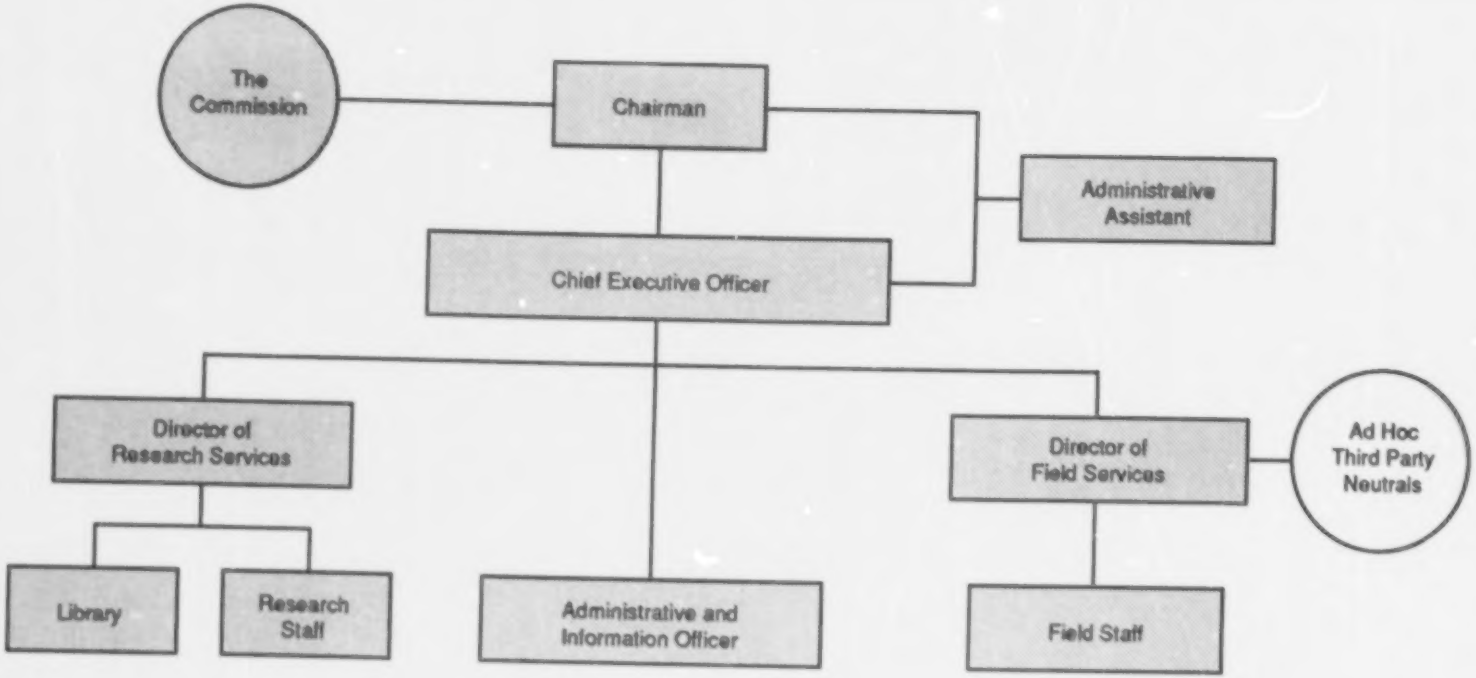
The small size and the extensive experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

II THE PARTIES

The parties to negotiations are the 2,000 trustees and the 108,000 teachers who represent and work in the approximately 170 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (49) provide Catholic education in the province. Until Bill 30 was passed the

Figure 1

ORGANIZATION CHART: THE EDUCATION RELATIONS COMMISSION



R.C.S.S. Boards did not have a secondary panel. Provincial funding for the R.C.S.S. Boards was provided to grade 10 only. Such Boards offering grades 11, 12 and 13 were actually operating private schools. This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to secondary schools in RCSS Boards and for this purpose Bill 30 was proclaimed in June of 1986 (see Section III).

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA):
5. L'Association des enseignants franco-ontariens (AEFO)

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association francaise des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

* Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1962. (OPSMTF)

III TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compul-

sory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons,lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy.

Moreover, those who drafted Bill 100 were convinced by events in the education sector and in other jurisdictions that strike-prohibiting legislation is not generally effective. In fact, it was felt that it could have the opposite effect. There was - and is - a feeling by many labour relations experts that legislation prohibiting strikes may expand employer-employee confrontation and magnify their adversarial feelings. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures and financial matters. Some trustees viewed the collective bargaining process as an infringement on management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final-offer- selection were provided at each step in the bargaining process. Moreover, events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

(a) a fact finder has met with the parties and his/her report has been made public; and

(b) a 15-day cooling-off period takes place after the fact finder's report is submitted to the parties; and

(c) the teachers have voted (by secret ballot in a supervised vote) on the last offer of the school board; and

(d) the teachers have voted (by secret ballot in a supervised vote) to take strike action.

Other features of the Act were also significant. Negotiations take place at the school board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary

and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for the binding settlement of disputes arising out of the administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — the Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below:

1. monitoring all negotiations;

2 collecting and providing data to all parties in collective negotiations;

3. assisting the parties in their collective negotiations;

4. training third party neutrals;

5. adjudicating good faith bargaining charges;

6. supervising last-offer, strike and ratification votes;

7. advising the Lieutenant Governor-in-Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first four years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the **School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464.**

Teacher-board negotiations were significantly altered when **An Act Respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province** (Bill 179) was enacted. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensa-

tion increases in the public sector to up to 9 per cent in the first year of the program (the "transitional" year) and 5 per cent in the second year (the "control" year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

During 1984-85, the dynamics of teacher-board bargaining were further changed with the introduction of An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining (Bill 111). The Act provided for the return to normal forms of dispute resolution.

The **Education Amendment Act** (Bill 30) was introduced by the Minister of Education on July 4, 1985 and received Royal Assent on June 24, 1986. The provisions of Bill 30 extend full funding to Roman Catholic Separate School Boards which elect to perform the duties of a secondary school board for the area of jurisdiction of the board. For this purpose the board must pass a by-law which is subject to the approval of the Minister.

The legislation established the Planning and Implementation Commission whose responsibilities include advising the Minister in respect of specific means by which the extension of the Roman Catholic school system to include secondary school education may best be carried out.

The provisions of the legislation are likely to have a significant effect on the bargaining structures and relationships between teachers and boards. Comments in this regard are contained elsewhere in this report (see Section IV(7)).

Since the legislation contemplates the transfer of a large number of secondary school students from schools operated by Boards of Education (public boards) to schools operated by a Roman Catholic School Board, it was necessary to build into the legislation certain safeguards for those teachers and other employees of Boards of Education whose positions disappear as a direct result of the transfer of students.

A public board is required in each of the first ten years to designate the persons on its staff whose services will not be required by the public board because of the election by the Roman Catholic School Board to perform the duties of a secondary school board. Designation is on the basis of seniority. Designated persons have certain guaranteed rights. These are as follows:

- the individual teaching contract or employment contract or employment relationship must be assumed by the Roman Catholic School Board;

- the person, whose employment contract is assumed by the Roman Catholic School Board must be employed in a position sub-

stantially similar to the position in which the person was previously employed;

- if there is no similar position available, the person is entitled to training for an alternate position [illegible] is to be retained on staff;
- if a designated person objects for reasons of conscience, the public board is required to designate another person unless it is of the opinion that the objection is not made in good faith;
- a designated person is entitled in the first year to an annual salary of not less than the salary which would have applied had he/she not transferred;
- a designated person maintains seniority and probationary or permanent status whichever applies;
- sick leave credits are transferred;
- upon termination of employment a gratuity is payable shared by both boards in the ratio that the number of years with each board bears to the total years of service;
- the Human Rights Code applies to the designated person with respect to advancement or promotion notwithstanding Section 23 of the Code.

Designated persons must agree to respect the philosophy and traditions of Roman Catholic Separate School Boards in the performance of their duties.

Disputes in respect of designation or of failure to designate may be resolved by the grievance arbitration procedure outlined in Section 136 m of the legislation. Parties to a grievance are the public board or the Roman Catholic school board and the organization that represents the person where the person is employed in accordance with the terms of a collective agreement.

The Education Relations Commission has a role to play in this procedure. If one of the parties fails to give notice accepting a single arbitrator or appointing a second arbitrator the Education Relations Commission appoints at the request of either party.

Consent of the Education Relations Commission is required for an arbitration board to extend the time for a decision beyond the statutory sixty (60) days.

IV NEGOTIATIONS

During 1986-87, there were collective agreements covering the terms and conditions of employment of approximately 100,000 teachers in Ontario. The number of school boards and the branch affiliates by type, and the number of teachers employed by those boards, are summarized in Table 1.

Table 1 School Boards, Branch Affiliates, and Teachers in Ontario, 1986–87

Board Classification	Number of Boards	Number of Branch Affiliates FWTAO	OPSTF	OECTA ELEM	OECTA SEC	AEFO ELEM	AEFO SEC	OSSTF	FOPSAT ***
Boards of Education	76*	76	76	-	-	10	-	-	-
Metro; Toronto School Board*	1	1	1	-	-	-	-	-	-
Roman Catholic School Boards	37	-	-	37	35	30	13	1	-
Roman Catholic Separate School Boards	12	-	-	11	-	10	-	-	-
Other Separate School Boards**	9	1	1	5	-	4	-	-	-
Other Public School Boards	22	22	22	-	-	-	-	-	-
Secondary School Boards	1	-	-	-	-	-	-	1	-
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	9	8	8	-	-	4	1	3	1
Total	167	108	108	53	35	58	14	5	1
Number of Teachers	110,429	31,633	14,161		24,011	3,860	1,695	35,069	365

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

** Includes one Protestant Separate School Board.

*** Federation of Provincial Schools Authority Teachers.

NOTE: TABLE 1 ONLY REPORTS BOARDS WHICH OPERATE SCHOOLS.

1. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, under ordinary circumstances not every collective agreement comes up for renewal in each year. As noted in Table 2, 190 of 249 jurisdictions were subject to negotiations in 1986-87.

Table 2 Status of Negotiations, 1986-87

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	17	60[1]
Boards of Education — Secondary	15	62[1,2]
County and District Combined Roman Catholic Separate School Boards	21[3]	32[4]
Other School Boards	6	35
Total	59	190

* Concluded a multi-year settlement during a previous year

[1] Includes central agreement covering Boards of Education within Metropolitan Toronto.

[2] Includes Geraldton (O.S.S.T.F.) and Geraldton (A.E.F.O.).

[3] Includes Carleton (A.E.F.O.), Carleton (O.E.C.T.A.), Ottawa (O.E.C.T.A.), Stormont, Dundas and Glengarry (O.E.C.T.A.), Sudbury (O.E.C.T.A.) and Sudbury (A.E.F.O.).

[4] Includes Cochrane-Iroquois Falls (O.E.C.T.A. Elementary), Cochrane-Iroquois Falls (A.E.F.O. Elementary), Cochrane-Iroquois Falls (A.E.F.O. Secondary), Ottawa (A.E.F.O.) and Stormont, Dundas and Glengarry (A.E.F.O.).

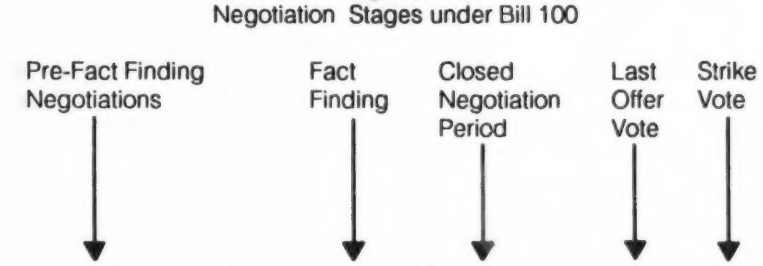
2. Third-Party Appointments

Figure 2 sets forth the possible stages in negotiations under Bill 100. The Act specifies that all collective agreements expire on August 31. If there are to be negotiations to renew the collective agreement, one of the parties is required to give its intent to negotiate (to the other party and to the Commission) in January of that year.

Negotiations between the parties typically occur from January to August without intervention from the ERC but if a settlement has not been reached by August 31, a mediator and/or a fact finder is appointed by the Commission to assist the parties. While mediation is voluntary, a fact finder must be appointed if an agreement has not been reached by August 31.

While it is possible for mediation and fact finding to occur **prior** to August 31, the more typical pattern is that portrayed in Figure 2. If a fact finder is appointed he/she has 30 days to hold a hearing with the parties and file a written report with the Commission and the parties. The report remains confidential for a 15 day period. If no settlement is reached during the 15 days, the report is released to the public. The teachers are then in a position to request Commission-supervised votes on acceptance or rejection of the school board's last offer and on the matter of strike.

Figure 2
Negotiation Stages under Bill 100



(a) Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. As noted, the process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive, procedural and attitudinal issues of a dispute prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties, or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder

may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

It is clear from experience in the years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that, in some cases, fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

We have reported before that under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. Its preference, wherever possible, is to have the parties settle prior to the point when, under the Act, the Commission must appoint a fact finder. Also, the Commission has attempted to strengthen the fact finding process. It has conveyed to its third parties that a meaningful fact finder's report is an essential part of the process — one which addresses in a concrete way the substantive and procedural issues in a dispute.

Two years ago, the results with respect to fact finding were troubling in that the Commission had to appoint a total of 130 fact finders. That is, out of a total of 227 sets of negotiations 57 per cent or 130 required a fact finder appointment. This represented one of the highest totals in both absolute and relative terms since the inception of the Commission. On this matter, in its 1984-85 Annual Report the Commission stated:-

> ... [T]he high number of appointments was not a surprise. That is, the 1984-85 results may simply be the result of bargaining inactivity [due to the **Inflation Restraint Act**]. On the other hand, the rate may be an indication that the legislation should be examined once again.

Against this background the results for 1985-86 and 1986-87 with respect to fact finding are encouraging. Table 3 lists the number of fact finder appointments for 1986-87. Table 4 includes the number of fact finder appointments from 1976-77 through 1986-87 (in absolute numbers and as a percentage of the number of negotiating situations). As revealed in Table 4, in relative terms there has been a return to the more typical experience under Bill 100. In roughly one-third of the cases the parties require a fact finders report before settling but this does not represent a significant shift from past experience.

Table 3 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1986-87

Board Classification	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
Boards of Education — Elementary[1]	28	25	21
Boards of Education — Secondary[1]	32	28	25
County and District Combined Roman Catholic School Boards[2]	16	12	9
Other School Boards	4	2	2
Total	80	67	57

1. Includes central agreement covering Boards of Education within Metropolitan Toronto.
2. Includes Stormont, Dundas and Glengarry (A.E.F.O.)

Table 4 Fact Finder Appointments, Reports Released to Parties and Reports made Public 1976-77 to 1986-87

Year	No. of Situations Negotiating	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
1976-77	189	71 (37.6%)	51 (27.0%)	39 (20.6%)
1977-78	210	63 (30.0%)	54 (25.7%)	42 (20.0%)
1978-79	207	114 (55.1%)	95 (45.9%)	69 (33.3%)
1979-80	180	109 (60.5%)	86 (47.8%)	77 (42.8%)
1980-81	132	49 (37.1%)	43 (32.6%)	34 (25.8%)
1981-82	168	50 (29.8%)	37 (22.0%)	29 (17.3%)
1982-83	173	62 (35.8%)	52 (30.1%)	48 (27.7%)
1983-84	178	0	0	0
1984-85	227	130 (57.3%)	108 (47.6%)	92 (40.5%)
1985-86	192	81 (42.2%)	62 (32.3%)	53 (27.6%)
1986-87	190	80 (42.1%)	67 (35.3%)	57 (30.0%)

(b) Mediation Appointments

Mediators, or "persons to assist" as they are referred to under Section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. Table 5 sets forth the number of mediators appointed in 1986-87 and in each bargaining round since the inception of the Act. Mediators were appointed in 65 situations in the 1986-87 bargaining year, or in slightly more than 34 per cent of the cases. (This represents an increase over the previous year when 25.5 per cent of the cases required mediation but is well below the 1984-85 rate when mediators were appointed in 42 per cent of the cases).

Table 5 Appointment of Mediators, 1975-76 to 1986-87

	Total number of negotiations conducted	Mediators appointed Number	Percent of Total Number of negotiations conducted
1975-76	205	51	25.0
1976-77	189	38	20.1
1977-78	210	58	27.6
1978-79	207	72	34.8
1979-80	180	63	35.0
1980-81	132	35	27.3
1981-82	168	47	28.0
1982-83	173	50	28.9
1983-84	178	5	2.8
1984-85	227	96	42.3
1985-86	192	49	25.5
1986-87	190	65	34.2

As indicated in Table 6, no mediation was required in 125 of the 190 negotiations or in 66% of the cases. The results indicate third party activity roughly in line with previous negotiation rounds (see Table 7). Also, as indicated in Table 7 no mediation was required both before and after fact finding suggesting a reduction in the length of mediation.

Table 6 Assignment Of Mediators, 1986 - 87

Board Classification	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Board of Education — Elementary	60	41	3	7	9	—
Board of Education — Secondary	63	34	4	13	12	—
County & District Combined Roman Catholic School Board	32	19	3	2	8	—
Other School Boards	35	31	2	1	1	—
Total	190	125	12	23	30	—

Table 7 Assignment Of Mediators, 1976-77 to 1986-87

Year	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
1976-77	189	151 (79.9%)	7 (3.7%)	2 (1.0%)	28 (14.8%)	1 (0.5%)
1977-78	210	152 (72.3%)	21 (10.0%)	3 (1.4%)	24 (11.4%)	10 (4.7%)
1978-79	207	135 (65.2%)	9 (4.3%)	7 (3.4%)	47 (22.7%)	9 (4.3%)
1979-80	180	117 (65.0%)	4 (2.2%)	3 (1.7%)	46 (25.5%)	10 (5.5%)
1980-81	132	97 (73.5%)	9 (6.8%)	3 (2.8%)	21 (15.9%)	2 (1.5%)
1981-82	168	121 (72.0%)	16 (9.5%)	10 (5.9%)	17 (10.1%)	4 (2.4%)
1982-83	173	123 (71.1%)	13 (7.5%)	20 (11.5%)	14 (8.1%)	3 (1.7%)
1983-84	178	173 (97.2%)	5 (2.8%)	0	0	0
1984-85	227	131 (57.7%)	22 (9.7%)	16 (7.0%)	48 (21.1%)	10 (4.4%)
1985-86	192	143 (74.5%)	8 (4.1%)	10 (5.2%)	30 (15.1%)	1 (0.5%)
1986-87	190	125 (65.8%)	12 (6.3%)	23 (12.1%)	30 (15.8%)	0

Table 8 shows the number of jurisdictions which received either fact finding or mediation assistance. A slight increase from the previous year is in evidence. In 1985-86 46% of the jurisdictions experienced either a fact finding or mediation appointment. This increased to 48% in 1986-87 but this is well below the highs established in 1978-79, 1979-80 and 1984-85.

Overall, therefore, the amount of third party activity in 1986-87 could be characterized as average when compared to the experience in previous years.

Table 8 Jurisdictions which received either Fact Finding or Mediation Assistance 1976-77 to 1986-87

Year	No. of Situations Negotiating	Fact Finder Appointments	Mediation Appointments	Total	%
1976-77	189	71	7	78	41.3
1977-78	210	63	21	84	40.0
1978-79	207	114	9	123	59.4
1979-80	180	109	4	113	62.8
1980-81	132	49	9	58	43.9
1981-82	168	50	16	66	39.3
1982-83	173	62	13	75	43.3
1983-84	178	0*	5	5	2.8
1984-85	227	130	22	152	67.0
1985-86	192	81	8	89	46.3
1986-87	190	80	12	92	48.4

* No negotiations due to Provincial Restraint Legislation.

3. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the Board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission. Any ratification vote ending a strike also must be supervised by the Commission.

Table 9 contains the number of last offer, strike and ratification votes conducted by the Commission over its history including the 1986-87 round. A total of 36 votes — 16 last offer, 14 strike and 3 ratification — were supervised by the Commission.

The number of last offer and strike votes represents the negotiations which go, or almost go, to sanction. That is, last offer and strike votes are an index of the degree of difficulty of negotiations in a particular negotiation round. The number of votes in 1986-87, although slightly higher than last year are not out of line with the long run experience.

Table 9 Supervised Boards's Last Offer, Strike and Ratification Votes, 1975-76 to 1986-87

Vote	75-76	76-77	77-78	78-79	79-80	80-81	81-82	82-83	83-84	84-85	85-86	86-87	Total
Board's Last Offer Votes													
Elementary *	—	—	2	1	1	—	—	—	—	3	1	1	
Secondary	15	5	8	9	12	1	7	4	—	23	7	8	
R.C.S.	—	5	5	3	12	3	5	—	—	13	7	7	
Other	—	—	—	1	1	1	—	—	—	—	—	—	
Total	15	10	15	14	26	5	12	4	—	39	15	16	171
Strike Votes													
Elementary	—	—	1	1	1	—	—	—	—	—	1	1	
Secondary	15	4	7	4	9	1	5	1	—	16	4	7	
R.C.S.	—	1	4	2	7	2	5	1	—	7	5	6	
Other	—	—	—	1	1	—	—	—	—	—	—	—	
Total	15	5	12	8	18	3	10	1	—	23	10	14	119
Ratification Votes													
Elementary	—	—	—	—	2	—	—	—	—	—	—	—	
Secondary	—	1	5	2	4	2	3	—	—	2	2	1	
R.C.S.	—	—	1	—	2	1	2	—	—	3	1	5	
Other	—	—	—	—	—	—	—	—	—	—	—	—	
Total	—	1	6	2	8	3	5	—	—	5	3	6	39
Total Vote by Year	30	16	33	24	52	11	27	5	—	67	28	36	329

Note * Includes central agreement covering Boards of Education within Metropolitan Toronto.
Note Boards of Education whtin Metropolitan Toronto counted individually

4. Strikes, Lock-outs and School Closings

From the 190 sets of negotiations referred to in Table 2, six resulted in sanctions (see Table 10). Of the six sanctions experienced during the reporting period five involved Roman Catholic School Boards. Salary parity with Boards of Education in the same jurisdiction was the major issue in most cases. There was one secondary school teachers' strike during this period. Two of the sanctions exercised against the school boards consisted of "work to rule" without any withdrawal of services. In the case of the Windsor Roman Catholic School Board the sanction took the form of full withdrawal followed by a "work to rule" after a tentative agreement had been reached pending ratification by the parties.

In the case of the Windsor Roman Catholic School Board the major issue was parity with the Windsor Board of Education with respect to salaries and benefits. It was reported to the Commission that the parties experienced an improvement of the relationship during over 200 hours of mediation prior to a tentative agreement being reached.

In the sanction against the Sault Ste. Marie Roman Catholic School Board two of the major issues concerned the Early Retirement Incentive Plan and parity with respect to salary benefits with the Sault Ste. Marie Board of Education. Two mediators appointed by the Education Relations Commission spent more than 60 hours in mediation before a tentative agreement was achieved.

The most extensive complete withdrawal of services occurred at the Dryden Board of Education. The secondary school teachers withdrew their services for a period of 33 instructional days. During this dispute, three mediators appointed by the Commission spent approximately 200 hours assisting the parties to reach a three year agreement. The main issues included the salary grid and the benefit package.

The two main issues involved in the sanction against the North Shore Roman Catholic School Board were the retirement gratuity and preparation time. A settlement was negotiated with mediator assistance of over 150 hours.

Work-to-rule sanctions were imposed on the York Region Roman Catholic School Board and on the Frontenac Lennox and Addington Roman Catholic School Board. Nearly 200 hours of mediation assistance was provided by the Commission in these jurisdictions. In the York Region dispute major issues included the salary, grid preparation time and class size. The dispute in Frontenac, Lennox and Addington centred around the salary grid, preparation time, staffing and noon hour supervision.

Table 10 Strikes, Lock-Outs and Closing of Schools, 1985-86
September 1, 1986 to August 31, 1987

Board	Number of Schools	Number of Teachers in Branch Affiliates	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
1986-87						
Windsor RCS Board	49	939	15,117	Full withdrawl	Feb 10 - Mar 2/87 (14 instruct. days)	Negotiated with mediation assistance
				Work-to-Rule	Mar 3 -10/87 (6 Instruct. days) (5 Instruct. days)	Secondary Panel Elementary Panel
Sault Ste. Marie RCS Board	26	385	6,821	Full withdrawal	Feb 16 - Mar 25/87 (23 Instuct. days)	Negotiated with mediation assistance
York Region	52	1,279.3	22,654.5	Work-to-Rule	Feb 16 - Mar 24/87 (22 Instruct. days)	Negotiated with mediation assistance
Dryden Secondary	3	118.3	1,514.8	Full withdrawal	Apr 6 - May 25/87 (33 Insrtuct. days)	Negotiated with mediation assistance
North Shore RCS Board	11	185	3,041	Full withdrawal	Apr 7 - May 10/87 (23 Insruct. days)	Negotiated with mediation assistance
Frontenac, Lennox & Addington RCS Board	19	318.5	5,570.5	Work-to-Rule	Apr 27 - May 20/87 (16 Instruct. days - Elem) (17 Instruct. days - Sec)	Negotiated with mediation assistance

A complete record of sanctions since the passage of the Act is included in Appendix B.

5. Voluntary Binding Arbitration / Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of the third-party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. As indicated in Table 11 voluntary binding arbitration was not utilized in any jurisdiction during the 1986-1987 round of negotiations. The following is a description of the process involved in each of these options.

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Table 11 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1986-87

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education — Elementary	—	—
Boards of Education — Secondary	—	—
County and District Combined Roman Catholic School Boards	—	—
Other School Boards	—	—
Total	0	0

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

6. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a grievance as the final and binding step of the procedure.

During 1986-87, the Commission made 8 such appointments, 5 were chairmen of arbitration boards, and 3 were single arbitrators (see Table 12). Figures since 1976-77 are presented in Table 13.

Table 12 Appointments Concerning Grievance Arbitration, 1986-87

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	—	
Board of Education — Secondary	1	1 Single Arbitrator
County and District Combined Roman Catholic School Boards	7	2 Single Arbitrators 5 Chairmen
Other School Boards	—	—
Total	8	

Table 13 Appointments Concerning Grievance Arbitration 1976-77 to 1986-87

Year	No. of Appointments by E.R.C.
1976-77	9
1977-78	13
1978-79	13
1979-80	8
1980-81	14
1981-82	3
1982-83	3
1983-84	7
1984-85	8
1985-86	10
1986-87	8

7. Determination of Good Faith Bargaining

Table 14 outlines the number of complaints of failure to bargain in good faith which were received by the Education Relations Commission in 1986-1987.

On February 6, 1987 the Hamilton-Wentworth Unit of the Ontario English Catholic Teachers' Association and the Hamilton-Wentworth Unit of L'Association des Enseignants Franco-Ontariens filed a complaint of failure to bargain in good faith against the Hamilton-Wentworth Roman Catholic School Board.

On February 9, 1987 the Ontario English Catholic Teachers' Association Hamilton High Unit filed a similar complaint against the Hamilton-Wentworth Roman Catholic School Board. The complaints were based on the allegation that the Board had refused to negotiate separately with the secondary school teachers and with the elementary school teachers but insisted on joint negotiations based on a two-tier proposal which was rejected by both the secondary and elementary school teachers. The complaints were in response to the position taken by the Hamilton-Wentworth Roman Catholic School Board as to the effect of Bill 30 on the bargaining structure.

In an earlier determination with respect to the Cochrane-Iroquois Falls Roman Catholic School Board (reported in detail in the 1985-86 Annual Report of the Education Relations Commission) the Commission concluded that the election by a separate school board to receive public funds under Bill 30 resulted in the creation of a Roman Catholic school board. In the Commission's analysis, a newly established Roman Catholic School Board operates distinct publicly funded elementary and secondary school boards. Accordingly, the Commission found that the branch affiliate had properly attempted to pursue separate negotiations for its separate (i.e. elementary) and secondary school members.

The requests with respect to the Hamilton-Wentworth Roman Catholic School Board for determinations under section 60(1)(f) of the **School Boards and Teachers Collective Negotiations Act** raised the identical question of statutory interpretation which was decided by the Commission in the Cochrane-Iroquois Falls case. The request did not indicate that any facts were in dispute.

Given the nature of the requests, and in accordance with its rules of procedure the Commission decided to make its determination solely on the basis of written submissions and not to convene an oral hearing.

Because the disposition of the requests was significant throughout the Province the Commission decided to afford the opportunity to interveners to make written representations as to the effect of the provisions of Bill 30 on the collective bargaining structure. The organizations identified below were invited to make written submissions.

Ontario School Trustees' Council

The Association of Large School Boards in Ontario

Ontario Public School Trustees' Association

Northern Ontario School Trustees' Association

Ontario Separate School Trustees' Association

L'association Francaise des Conseils Scolaires de l'Ontario

Ontario Teachers' Federation

Ontario Secondary School Teachers' Federation

Federation of Women Teachers' Associations of Ontario

Ontario Public School Teachers' Federation

Ontario English Catholic Teachers' Association

Association des Enseignants Franco-Ontariens

Written submissions were received from the parties and from the interveners listed below.

Ontario Public School Trustees' Association

Ontario Separate School Trustees' Association

Ontario Secondary School Teachers' Federation

Ontario English Catholic Teachers' Association

Association des Enseignants Franco-Ontariens

The Commission made its determination on May 21, 1987. The determination included the following:

> As we found in Cochrane-Iroquois Falls, Bill 30 does create a new entity, viz. a **Roman Catholic school board.** Such an entity clearly has been created. It is specifically provided for in the **Education Act.** It also is clear that **only** a Roman Catholic school board can provide secondary school education under the provisions of Bill 30. Section 136(c) is specific and unambiguous on this point....
>
> This now brings us to the **Negotiations Act** and the definition of a "board" under our home statute. The **Negotiations Act** is a labour relations statute and it has a decidedly different purpose than the **Education Act,** and is to be interpreted with a view to furthering harmonious relations between boards and teachers. In this regard we are of the view that a Roman Catholic school board is a secondary school board and thus a "board" within the meaning of our statute. We note that a Roman Catholic school board was created **specifically** to perform the duties of a secondary school board. In this light, and to the same effect as Cochrane-Iroquois Falls, we find that for the **Negotiations Act** a Roman Catholic school board is a secondary school board for secondary school purposes within the meaning of s.l(c). For the **Negotiations Act,** we find there is also a Roman Catholic separate school board for elementary school purposes. Or, alternatively, and to the same effect, for the **Negotiations Act** a Roman Catholic school board acts in the capacity of a secondary school board for secondary school purposes and in the capacity of a Roman Catholic separate school board for elementary school purposes. In either case, O.E.C.T.A. may undertake separate elementary-secondary negotiations at the respondent board....
>
> In conclusion, the branch affiliates of O.E.C.T.A. have the right to file two separate notices of intent to negotiate with the Hamilton-Wentworth Roman Catholic School Board. In the result and pursuant to s.60(1)(f) it is our view that the Hamilton-Wentworth Roman Catholic School Board is in violation of s.11 of the **Negotiations Act** and accordingly we determine and direct that the board shall negotiate with the branch affiliates as separate entities and in accordance with the requirements of s.11.

On June 10, 1987 the Commission was advised that the Hamilton-Wentworth Roman Catholic School Board was commencing an Application for Judicial Review in the Supreme Court of Ontario.

Table 14 Good Faith Bargaining Charges, 1986-87

Complainant	Respondent	Disposition
Branch Affiliates of OECTA Elementary and AEFO Elementary	Hamilton-Wentworth Roman Catholic School Board	Upheld
Branch Affiliate of OECTA Secondary	Hamilton-Wentworth Roman Catholic School Board	Upheld
Metropolitan Toronto School Board and the Boards of Education within Metropolitan Toronto	Branch Affiliates of OSSTF and AEFO (Secondary)	Withdrawn
Branch Affiliates of OECTA	Sault Ste. Marie Roman Catholic School Board	Withdrawn

8. Advisements

During the 1986-87 negotiation round no advisements were issued by the Commission concerning its obligation to advise the Lieutenant Governor-in-Council when in its opinion the continuation of a strike, lock-out, or closing of schools would place in jeopardy the successful completion of courses of study by students.

9. Report of the Ontario Ombudsman

During the strike of secondary school teachers employed by the Grey County Board of Education during the period September 23 to November 10, 1985 an organization of parents was formed under the title of Grey County Parents for Education. The Chairman of the parents' group filed a complaint with Mr. Daniel G. Hill, the Ontario Ombudsman. The complainant contended that:

- the Education Relations Commission had failed to advise the Minister of Education that the students were in jeopardy of not successfully completing their courses of study for the school year;
- the Education Relations Commission had unreasonably failed to maintain a constant awareness of the status of negotiations between the teachers and the school board;
- the Education Relations Commission had not properly informed the Minister of Education of the status of the sanction.

The Ombudsman completed his report during the reporting year and filed a copy with the Commission. The following extracts are reproduced from the report.

> I believe it is important to once again review the major principle upon which the Education Relations Commission operates under the **School Boards and Teachers Collective Negotiations Act.** In reference to that Act it is the duty of the Commission to assist the parties in their collective bargaining. The Commission also has the duty under section 61(1)(h) of the Act not to declare jeopardy but to advise the Lieutenant Governor-in-Council when in the opinion of the Commission the continuance of a strike will place in jeopardy the successful completion of courses of study by the students affected by the strike. Therefore in exercising its duty, the Commission does indeed face two potentially conflicting policies in the Act. On the one hand, the Act envisions free collective bargaining with a possibility of resorting to strike or lock-out. On the other hand, when the harm becomes too great or the risks conclusive, the statute contemplates that the right of the parties to impose sanctions may be subordinated to the right of the students to resume their education. To effect such a balance between these policies is the difficult task facing the Commission.
>
> With respect to the parents' concerns that the Minister of Education and the Parliamentary Assistant were not properly informed, I note that a photocopy of a May 15, 1984 Report of the Commission was sent to the Minister advising him of the appointment of the fact finder effective May 14, 1984. In a subsequent report dated August 14, 1984, the Minister was directly advised that the fact finder's report had been submitted on June 14 and made public on July 14, 1984. I note further that after May 6, 1985 when the teachers requested a last offer and strike vote, the Education Relations Commission provided to the Minister regular written reports on the status of negotiations in the Grey County dispute. Subsequent reports were completed on several occasions in May, June, July and September, 1985.
>
> In addition to obtaining the above-noted documentation, personal interviews were held with Mr. Field, Dr. Downie and the Ministry of Education's chief staff member responsible for advising the Minister of the ongoing status of negotiations particularly during strikes. That information has revealed that during the strike Mr. Field was in contact with the Minister's office on almost a daily basis to apprise the Minister and his staff of the situation. From Ms. Van Kleef's discussions with the Minister's staff, I

note that the Ministry had no concerns about the Education Relations Commission's actions during that period. The Ministry has informed me that although the Education Relations Commission has no legislative obligation to keep the Ministry informed, communications on this kind of issue are very frequent.

While I completely understand and appreciate the concerns demonstrated by the parents in this case, the available information demonstrates, in my opinion, that the Education Relations Commission exercised its duties in a most responsible manner and was constantly aware of the negotiations in order to make an informed decision respecting the aspects of jeopardy.

In a case such as that registered by Grey County Parents for Education, the **Ombudsman Act** permits me to find a complaint to be supported and make an appropriate recommendation where I am of the view that the decision, or action complained of was "unreasonable, unjust, oppressive, or improperly discriminatory". Having considered the results of the investigation conducted by my Office, I am unable to so describe the acts and decisions of the Education Relations Commission in this case.

10. Duration of Agreements and the 1987-88 Round

Negotiation activity for the 1986-87 round was slightly lower than the previous year because of an increased number of two- or three-year agreements. In 1986-87 98 agreements were for two or more years (see Table 15) so that the level of negotiation activity will be much lower in 1987-88.

Table 15 Duration and Termination Dates of Settlements Concluded in 1986-87

Board Classification	Not Settled	1 Year Aug. 31/87	2 Years Aug. 31/88	3 Years Aug. 31/89
Boards of Education — Elementary	7	24	28	1
Boards of Education — Secondary	1	31	28	3
County and District Combined Roman Catholic Separate School Boards	—	7	23	2
Other School Boards	1	21	13	—
Total	9	83	92	6

V STAFF ACTIVITIES

1. Field Services

(a) Monitoring of Negotiations

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone enables the individual Field Service Officer to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

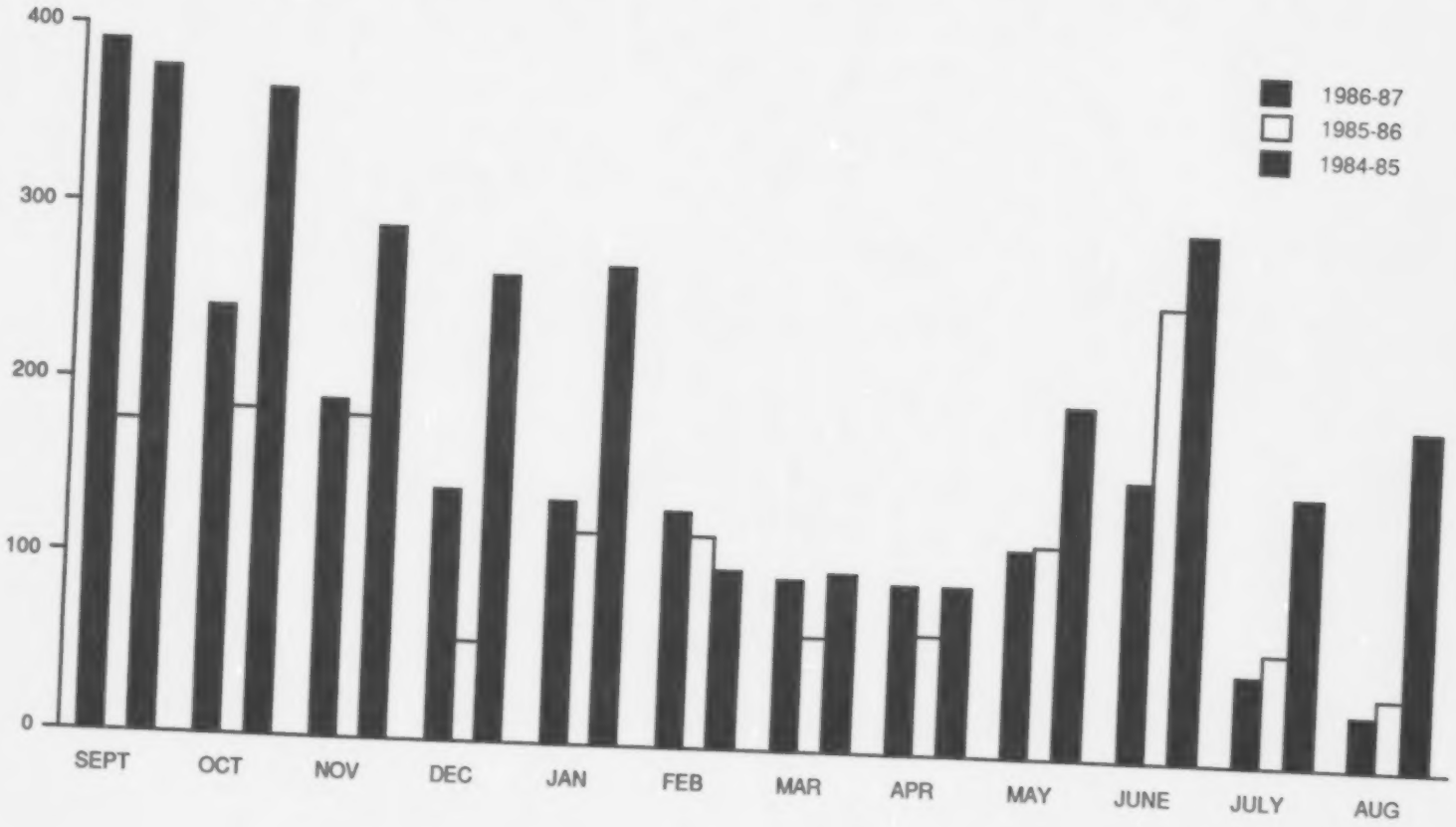
Field Services staff formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments are made. Moreover, more informed decisions concerning third party appointments have resulted.

In the monitoring activities, emphasis is placed on the Field Service Officer establishing a high profile with the parties and on strengthening the relations between the field officer and the branch affiliates and school boards. This enables the Commission to provide the best possible service to the parties in their negotiations and to assist teacher-board relations.

Figure 3 indicates on a monthly basis, the level of telephone monitoring activity on the part of Field Services staff during the 1986-87 year. The staff's visits to various jurisdictions in the province during the past year are illustrated on the following pages.

* A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers federations or associations. A branch affiliate is comparable to a local union.

Figure 3 Telephone Calls In-Coming and Out-Going Field Service Monitoring

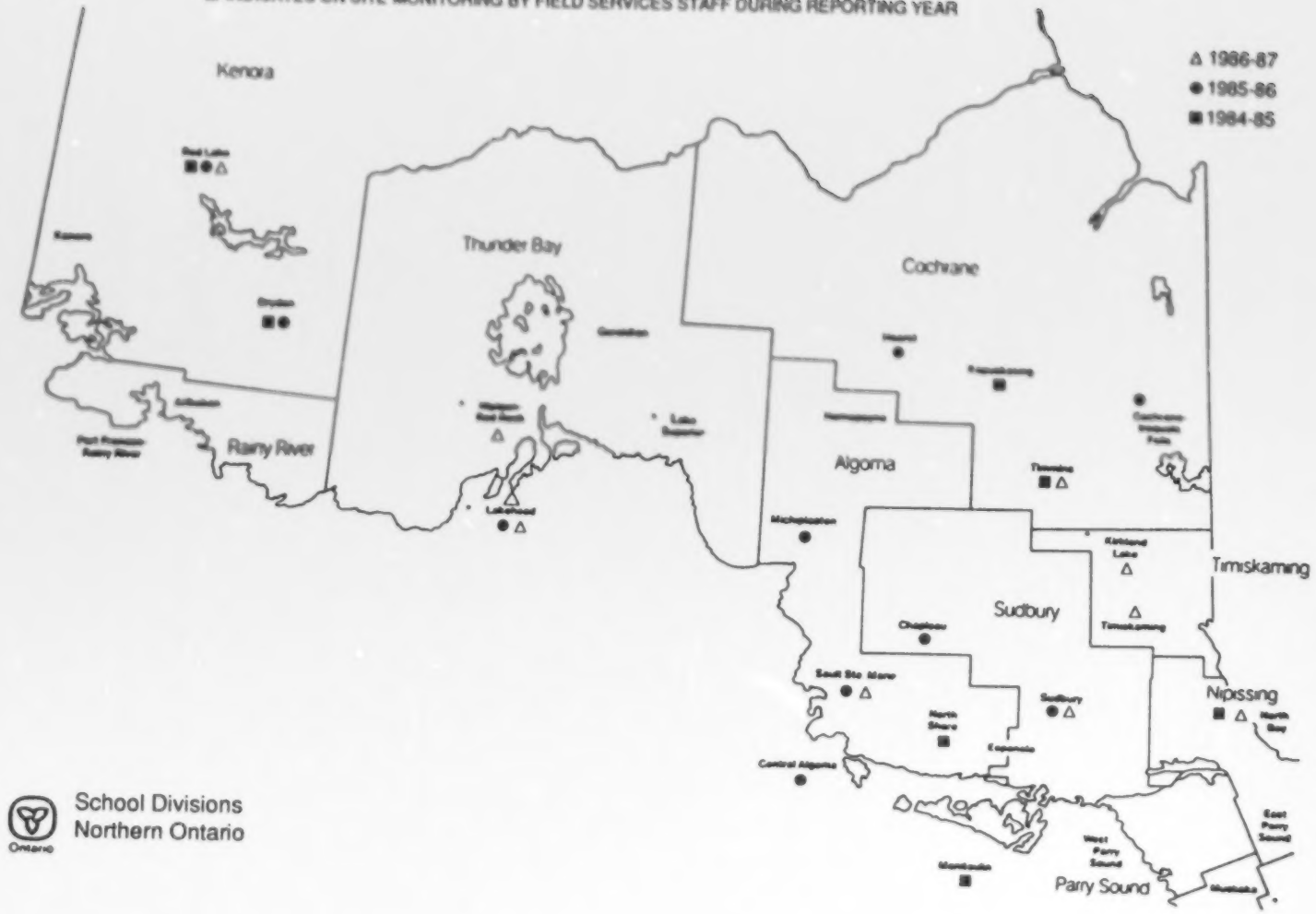


Δ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

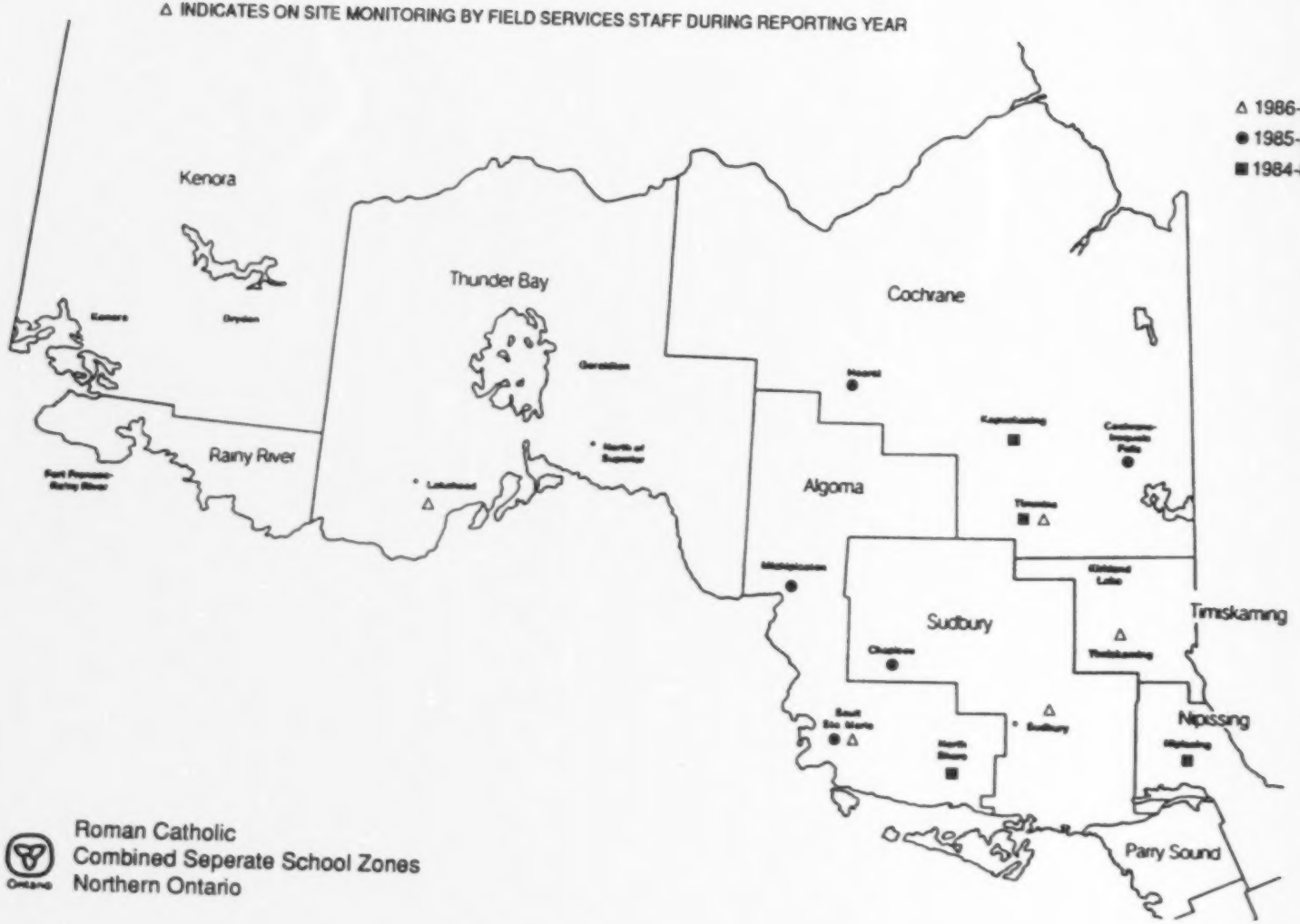
△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

Roman Catholic
Seperate School Zones
Southern Ontario

△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR



School Divisions
Northern Ontario


△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR
△ 1986-87
● 1985-86
■ 1984-85
Kenora
Thunder Bay
Cochrane
Rainy River
Algoma
Sudbury
Timiskaming
Nipissing
Parry Sound
Roman Catholic
Combined Seperate School Zones
Northern Ontario

In addition to the monitoring and third-party appointment processes, Field Services staff members are intensively involved in a number of other Commission endeavours:

1. selection, training and evaluation of third-parties;
2. quasi-judicial matters;
3. preventive mediation programs;
4. other miscellaneous activities.

(b) Selection and Training of Third Parties

Beyond the role which Field Services staff perform in the appointment of third party neutrals, they are also engaged in their selection, training and evaluation.

(i) Selection

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. The Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC, but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During May, the Commission sponsored a Mediation Workshop for Women.

The purpose of the Workshop was threefold:

(1) to expand the E.R.C.'s roster with capable female third parties to undertake future mediation assignments;

(2) to provide a unique opportunity for women to be trained in the field of mediation;

(3) to discuss possible and/or potential areas of difficulty peculiar to women in a still predominantly male field.

Twenty three women were recruited for this workshop and all agreed to attend. Ten of the women were already on the E.R.C. roster and had fact finding training and experience; some had limited mediation exposure as well. The other thirteen women came highly recommended by various labour relations specialists around the province.

The presenters, Albie Davies, director of the District Court Mediation Project in Massachusetts and Margaret Shaw, director of the Institute of Judicial Administration in Washington conducted an outstanding programme. The topics addressed were: intervenor models, the distinction between an adjudicatory and a participatory process; the mediator at work, a live simulation demonstration; an analysis of the techniques used in mediation; framing the issues; building and maintaining movement towards settlement; and special issues for women mediators. Much discussion, role play and skills identification took place in an atmosphere of high energy and sharing of experiences.

The women were welcomed by Jane Scott, E.R.C. Commissioner and given an introduction to the E.R.C.'s role and duties and the role of Field Services by Drena Nilsson, as well as an Overview of Research Services by Sharon McElroy.

The participants, through their evaluations, indicated that the endeavour was highly successful.

Amendments to the **Education Act** which extended full funding to the secondary grades within Roman Catholic Separate School Boards made the Commission responsible, in the absence of agreement between the parties, for appointing arbitrators to resolve disputes concerning the process by which school board employees were "designated" to move from the public to the Roman Catholic system as a result of any shift in student enrolment. Given this new area for arbitrators, staff planned an informational workshop to acquaint them with the legislation and relevant regulations. The workshop was not held, however, due to the lack of requests for the Commission to make such appointments.

(c) Quasi-Judicial Matters

Field Services staff are involved in two areas: (1) the appointment of Returning Officers in conjunction with branch affiliate requests to hold Commission-supervised votes, and (2) the investigation of complaints alleging the failure of a party to negotiate in good faith.

(i) Commission-Supervised Votes

Following the public release of a fact finder's report, a branch affiliate is in a position to request that the Commission supervise a vote by its members on the last offer received from the school board and/or whether or not a strike is favoured. Also, if a strike does occur, once a settlement is achieved during the strike, the teachers are required to conduct a Commission-supervised vote concerning the approval of the terms of agreement.

Field Services staff arrange for qualified people throughout the Province to act as Returning Officers for these votes. During the 1986-87 year, 36 votes were conducted in 16 jurisdictions.

(ii) Complaints related to Good Faith Bargaining

The Commission has established a procedure for dealing with complaints of this nature. The procedure provides that prior to a formal hearing an informal effort be undertaken to investigate a complaint with a view to its resolution. It has become customary for Field Services staff to act as investigators and a total of 4 complaints were dealt with during the 1986-87 year, 2 of which were resolved locally thus avoiding the need to proceed to a hearing.

(d) Preventive Mediation

Preventive mediation programs are administered by the Field Services unit. Their main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition preventive mediation attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that preventive mediation activities are not designed to change the present structure of collective bargaining. However, they are designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, preventive mediation is conducted outside negotiations.

It should be stressed that preventive mediation program is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with preventive mediation began in 1979-80, an official program was not established until 1980-81. The two dimensions of the preventive mediation program are: Relationships by Objectives and Grievance Mediation.

Prior to the formal establishment of Relationships by Objectives, the Commission provided an activity called "technical service". A chronology of technical service and Relationships by Objectives is contained in Appendix C.

(I) Relationships by Objectives (R.B.O.)

The R.B.O. program involves two numerically equal groups of teachers and trustees/administrators in working through the six steps identified below:

I Identification of the issues to be resolved as seen by each side.

II Explanation of issues and rationale by each side to the other.

III Agreement on a list of objectives based on the issues.

IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.

V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.

VI Acceptance of action steps, assigning responsibility and setting time lines by whole group.

This program was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.

2) Shorten the program from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III.

The design of the program allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint action steps to meet these objectives.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which exist in every organization.

The Commission in offering this program to school boards throughout Ontario, insists that two criteria be met:

1. Both parties indicate that they desire to participate in the program.

2. The program will not be offered in any jurisdiction where negotiations are in progress.

Jurisdictions which have utilized this program during the reporting year are listed below:

Red Lake Board of Education and its secondary teachers
Sault Ste. Marie Board of Education and its secondary teachers

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission introduced grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process.

In February 1984, the Commission hosted a workshop for the parties on grievance mediation. The aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended and these encompassed the full spectrum of the education sector — teachers, trustees, administrators and boards' legal counsel.

The grievance mediation process, while utilized modestly, remains a useful and less costly alternative to rights arbitration.

A chronology of Grievance Mediation covering the period 1980-87 is contained in Appendix D.

(e) Other Miscellaneous Activities

Liaison activities continued with E.R.C. Field Services staff and the staffs of the various provincial bodies of teacher and trustee organizations. These sessions enable an on-going dialogue about the collective bargaining process and perceived problems or areas for improvement.

Throughout the year, Field Services staff were asked to act as presentors in a wide variety of workshops and seminars enabling the role and activities of the Commission to be explained on a first hand basis. Among others, staff were involved in the following:

> Canadian School Trustees' Association Conference for Negotiators, Association of Labour Relations Agencies Annual Meeting and Conference, Ontario School Trustees' Council Salary Conference, Ontario Association of Education Administrative Officials Conference for Chief Executive Officers, Ontario Association of School Business Officials Contract Administration Workshop, Isolate Teachers' Conference, Ontario Municipal Personnel Association, Ontario Council for Leadership in Educational Administration Workshop.

2. RESEARCH SERVICES

(a) Information

Research Services - which is composed of a Director, two Research Specialists, and a Research Officer - is responsible for developing and maintaining a common collective bargaining data base. Local teachers and school boards rely heavily on this data base to identify emerging settlement trends, and to resolve factual disputes.

The Commission's data base contains salary, benefits and other working conditions information which has been extracted from over 2,000 collective agreements dating back to 1975-76. Also contained in the data bank are staffing, enrolment and school board expenditure information which is collected in cooperation with the Ministry of Education.

Research Services also maintains a reference library which contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and E.R.C. determinations. The library is open to the public.

Research officers participate actively in the training and evaluation of mediators and fact finders. The unit tries to improve the efficiency and effectiveness of third parties by supplying, on very short notice, historical and comparative analyses of salaries and other working conditions. These analyses are used by the third parties to evaluate the relative merits of the two parties' positions, and to develop recommendations which will assist the parties in reaching a rational and amicable settlement of their differences.

An in-house mini-computer was purchased by the E.R.C. in November 1985 to increase the scope and quality of its research services, while controlling the costs of data processing.

Direct access to the E.R.C.'s computerized system was granted to the provincial teacher and trustee organizations in November, 1985 and to local board and teacher branch affiliates in April, 1986.

The E.R.C. also joined the Ministry of Education's Educational Computing Network of Ontario (ECNO) in 1986. The Network allows users of the E.R.C. system to electronically move reports and data from the E.R.C. to local computers.

By June of 1986, six provincial teacher and trustee organizations and over fifty school boards and local branch affiliates were directly accessing E.R.C.'s computer. In addition, mediators, fact finders and other government organizations (such as Ontario's Human Resources Secretariat and the Ministry of Education for British Columbia) requested and were given permission to directly access E.R.C. data.

A further eighteen (18) school boards and branch affiliates are scheduled to come on line in August and September. The British Columbia Teachers' Federation, and the British Columbia Trustees' Association have also requested direct access for mid-September.

In August, 1987 the E.R.C. introduced a new, and greatly enhanced, database system based on state-of-the-art artificial intelligence and expert advisory system concepts. The new system:

1. tries, wherever possible, to simplify matters to facilitate access by inexperienced and non-technical users;

2. significantly decreases user reliance upon research staff for programming support;

3. provides comprehensive and sophisticated graphics capabilities to assist users in visualizing relationships;

4. offers a powerful spreadsheet/modeler system for conducting "what if" analyses;

5. introduces a unique menu driven and interactive "data analysis advisor". The advisor leads users through the analytic process and provides extensive support and guidance on appropriate statistical techniques and methodologies;

6. includes a simple to use, yet extremely powerful, text and graphics formatter for preparing textbook-quality reports.

The ERC has also entered into a number of partnerships with other organizations. The Ontario English Catholic Teachers Association (OECTA), for example, is working closely with the E.R.C. to develop and test the new system. The Ontario Public School Trustees' Association (OPSTA) is assisting the E.R.C. in collecting salary and working conditions information for non-teacher school board bargaining units. The Ministry of Education in British Columbia is working with the E.R.C. to develop a national data base. And the Ministry of Education has agreed to work with the ERC to find ways to facilitate access to Ministry data deemed to be particularly useful for resolving problems at the bargaining table.

b) Research

Research Services contracted with Professor Richard Jackson of Queen's University to study the efficacy and effect of the fact finding process under the provisions of Bill 100. Local teacher and trustee chief negotiators were sent a questionnaire survey to obtain their evaluations of the process and to solicit their recommendations for improving the process. A final draft of the results is expected in the Fall of 1987.

APPENDIX A BIOGRAPHIES OF THE COMMISSIONERS

Chairman

Bryan M. Downie, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, **Collective Bargaining and Conflict Resolution in Education** examines the activities and policies of the Education Relations Commission during its formative years. He is past President of the Canadian Industrial Relations Association and is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C.

Vice-Chairman

T. Gary O'Neill, B.A. Sc. (University of Toronto), M. Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill, is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner

John Irwin Zeiler, B.A. (University of Toronto), LL.B. (University of Toronto).

Mr. Zeiler, is a partner in the law firm of Leve and Zeiler whose practice includes real estate, corporate, commercial and estate work. He was the solicitor for the developer who registered the first condominium in Ontario. Mr. Zeiler has taught for the Ontario Real Estate Association, the Appraisal Institute of Canada and more recently in the Department of Administrative Studies at York University where he lectures in Real Property Law.

Commissioner

Jane Scott, B.A. (Queen's University).

Ms. Scott, has served three consecutive terms as chairman of the Lennox and Addington County Board of Education and was elected president of the Ontario Public School Trustees' Association for the year 1985. As a school trustee Ms. Scott had considerable experience in the field of teacher/board collective bargaining and in education finance. Her teaching experience includes business subjects such as Law, Bookkeeping and Office Practice.

Commissioner

William John McNeil, B.Com (University of Toronto).

John McNeil has had 15 years of experience as a teacher and Vice Principal in North York and 15 years of service as a Field Officer with the Ontario Secondary School Teacher's Federation. His past activities include Presidency of District 13, OSSTF, Governor of the Ontario Teacher's Federation, Advisory Board Member on Provincial Executives of OSSTF and former trustee of the Ontario Teacher's Insurance Plan. He is currently enrolled in the Master's Degree Program in Industrial Relations at the University of Toronto.

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1986-87

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-Rule
1975-76 **Secondary** (6):*		
** Central Algoma	35	35
Kent County	66.5	13.5
** Kirkland Lake	44	44
** Metro Toronto	38	38
** Sault Ste. Marie	46	13
** Windsor	27	26
Year Average	**42.7** (40.6)***	**28.2** (32.7)***
1976-77 **Secondary** (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	**34.0**	**12.0**
RCSS (1):		
Durham	9	9
Year Average	**9.0**	**9.0**
1977-78 **Secondary (5):**		
Essex	16	16
Huron	31	31
Perth	41	0
** Renfrew	73	44
Wentworth	49	16
Year Average	**42.0**	**21.4**
RCSS (1):		
Essex	34	34
Year Average	**34.0**	**34.0**
1978-79 **Secondary (3):**		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	**23.7**	**21.3**
1979-80 **Elementary (2):**		
Brant	22	22
Peel	14	13
Year Average	**18.0**	**17.5**
Secondary (3):		
Lambton	39	39
North York	40	0
** Sudbury	56	56
Year Average	**45.0**	**31.7**

RCSS (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	**16.0**	**16.0**
1980-81 **Secondary (3):**		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	**39.3**	**38.3**
RCSS (1):		
Essex	9	9
Year Average	**9.0**	**9.0**
1981-82 **Secondary (2):**		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	**25.5**	**25.5**
RCSS (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	**15.0**	**15.0**
1982-83 **Secondary (1):**		
Oxford County	7	1
Year Average	**7.0**	**1.0**
1983-84 (0)	0	0
1984-85 **Secondary (2):**		
Hamilton (OSSTF)	39	29
Muskoka	30	30
Year Average	**34.5**	**29.5**
RCSS (3):		
Stormont, Dundas and Glengarry (AEFO)	9	9
Sudbury	21	21
York Region	22	0
Year Average	**17.3**	**15.0**
1985-86 **Secondary (3):**		
** Wellington (OSSTF)	50	50
Grey (OSSTF)	42	42
Lennox & Addington (OSSTF)	11	8
Year Average	**34.3**	**33.3**
RCSS (1):		
Metro	5	5
Year Average	**5.0**	**5.0**

1986-87 **Secondary (1):**		
Dryden (OSSTF)	33	33
Year Average	**33.0**	**33.0**
RCSS (5):		
Frontenac, Lennox & Addington (AEFO, OECTA)	16 (instruct. days elementary) 17 (instruct. days secondary)	—
North Shore (OECTA)	23	23
Sault Ste. Marie (AEFO, OECTA)	23	23
Windsor (AEFO, OECTA)	14	14
York Region (AEFO, OECTA)	22	—
Year Average	**19.2**	**20.0**

* 11 sanctions if Metro = 6
** An advisement was made pursuant to section 60(1)(h)
*** Average if Metro = 6

APPENDIX C CHRONOLOGY OF PREVENTIVE MEDIATION

DATE	JURISDICTION	PARTIES	NATURE OF PREVENTIVE MEDIATION
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Five meetings to set up ground, rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Assisted in developing a staffing formula for September 1980
1979	Perth County Bd. of Education	Trustees, Administrators	Chaired committee of teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators	Weekend workshop of Relationships by Objectives.
Jan-Feb 1980	Wellington County Board of Education	Trustees, Administrators, Secondary Teachers	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees, Administrators	Day and one-half workshop on Relationships by Objectives.
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	One-day workshop on communications.
Oct 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Day and one-half workshop on Relationships by Objectives.

Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers CUPE	Three-day workshop on Communication Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers CUPE	Three-day workshop on Problem-Solving Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Three-day workshop on Conflict Management.
Mar 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Two-day workshop on Relationships by Objectives.
Oct 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Two-day Evaluation workshop.
Apr-May 1981	London Bd. of Education	Administrators	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. of Education	Trustees, Administrators, Teachers	One-day workshop on communications.
Feb 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	One-day workshop to review communication, problem-solving and conflict management skills establish future goals; develop action steps.
Mar 1982	Essex RCCS Bd.	Trustees, Administrators, Teachers (OSSTF FWTAO, AEFO)	Two-day workshop on communications, problem solving and conflict management skills.

Apr 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools, selected department heads from the Secondary school, and consultants who serve the system.	Three-day workshop of Leadership, skill development in communications, problem solving, decision-making, and ways to handle conflict.
June 1982	East Parry Sound Bd. Education	Trustees, Administrators, Elementary and Secondary Teachers	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Day and one-half workshop on Relationship by Objectives.
Nov 1982	Lincoln Bd. of Education	Trustees and Administrators	Two-day workshop on Relationship by Objectives; familiarize new trustees with the school system operation.
Feb 1983	East Parry Sound Bd. of Education	Internal facilitators, 1 Trustee, 5 Elementary Teachers, 1 Secondary Teacher	Three-day workshop to develop Education internal facilitators.
Feb 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.

May 1983	East Parry Sound Bd. of Education	Internal facilitators, 1 Trustee, 5 Elementary Teachers, 1 Secondary Teacher, 3 ERC Staff	Learning reinforcement for internal facilitators.
Oct 1983	West Parry Sound Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1984	Atikokan Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1984	Welland County Roman Catholic Separate School Board	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives.
May 1984	Canadian Forces Base, Petawawa Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1985	Renfrew County Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Oct 1985	Red Lake Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives
Nov 1985	York Region Bd. Roman Catholic Separate School Board	Trustees, Administrators, Teachers	Two-day workshop on Relationships by by Objectives
Jan 1986	Muskoka Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives

Feb 1986	Hamilton Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Mar 1986	Grey County Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Apr 1986	Bruce-Grey RCSSB	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives
Apr 1986	Dryden Bd. of Education	Trustees, Administrators, Secondary and Elementary Teachers	Two-day workshop on Relationships by Objectives
Nov 1986	Red Lake Board of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Nov 1986	Sault Ste. Marie Board of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives

APPENDIX D CHRONOLOGY OF GRIEVANCE MEDIATION APPOINTMENTS, 1980

DATE	PARTIES	NATURE OF ASSISTANCE
June 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Issue Resolved
June 1981	Nipissing Board of Education and the Branch Affiliates of FWTAO and OPSTF	Issue Resolved
March 1982	Central Algoma Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
May 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of FWTAO and OPSTF	No Resolution; Issue went to Arbitration
May 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
Sept. 1983	York Region RCSS Board and the Branch Affiliate of OECTA	No Resolution; Issue went to Arbitration
Sept. 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration
Sept. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Issue Resolved; but Rejected by Board October 3, 1984
Oct. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Seven Grievances Issues Resolved
Dec. 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Two Grievances, one Resolved, one to Arbitration
Dec. 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Issue Resolved
Jan. 1984	Halton Board of Education and the Branch Affiliate of OSSTF	No Resolution; Issue went to Arbitration

Jan. 1984	Peel Board of Education and the Branch Affiliate of OSSTF	No Resolution
Jan. 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Resolved
April 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Issue Resolved; Rejected by Board
April 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Issue Resolved
June 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Agreement to hold Issue in Abeyance
June 1984	Red Lake Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
June 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	No Resolution; Issue went to Arbitration
Oct. 1984	Sudbury Roman Catholic Separate School Board and the Branch Affiliate of AEFO	Resolved
Nov. 1984	Timiskaming Board of Education and the Branch Affiliate of OSSTF	Parties unable to meet; Issue to Arbitration
Dec. 1984	Sudbury District Roman Catholic Separate School Board and the Branch Affiliated of OECTA	Resolved
Dec. 1984	Kapuskasing Board of Education and the Branch Affiliate of FWTAO	Resolved
April 1985	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Resolved
May 1985	Red Lake Board of Education and the Branch Affiliate of FWTAO	Resolved
May 1985	Board of Education for the City of Windsor and the Branch Affiliate of OSSTF	Issue to Arbitration

Oct. 1985	Kenora Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Oct. 1985	C.F.B. Kingston Board of Education and Branch Affiliate of F.W.T.A.O. and O.P.S.T.F.	Resolved
Nov. 1985	Halton Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Dec. 1985	Wentworth County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Feb. 1985	Hamilton Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
April 1986	Dufferin County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
May 1986	Windsor Board of Education and Branch Affiliate of O.S.S.T.F.	Not Resolved
May 1986	Sudbury District R.C.S.S. Board and Branch Affiliate of O.E.C.T.A.	Not Resolved
May 1986	Essex County R.C.S.S. Board and Branch Affiliates of A.E.F.O. and O.E.C.T.A.	Not Resolved
June 1986	Wentworth County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Oct. 1986	C.F.B. Kingston Board of Education and Branch Affiliates of FWTAO and OPSTF	Not Resolved
March 1987	Lambton County RCSB and Branch Affiliates of OECTA and AEFO	3 Grievances

APPENDIX E STATEMENT OF EXPENDITURES APRIL 1, 1986-MARCH 31, 1987

Categories	Budget Allocation $	Actual Expenditures $
Salaries and Wages*	612,700	587,477
Employee Benefits*	78,900	71,951
Transportation and Communications		
Communications	19,000	22,536
Mailing	25,000	16,312
Freight	—	—
Relocation Expenses	—	—
Travel Public Servants	47,000	41,706
Travel - Others	162,400	160,797
	253,400	241,351
Services		
Advertising-Print	5,000	9,365
Design	—	—
Rental Services	9,500	6,820
Data Processing	25,000	1,955
Housekeeping	1,500	711
Conference Expenses	30,000	28,597
Commissioners	30,000	26,490
Professional Services	467,800	247,134
Purchasing, Repairs	35,000	40,275
Special Services	40,000	37,982
Job Advertising	—	—
	643,800	471,414
Supplies		
Data Processing)		
Equip./Supplies)	35,000	62,172
Office Furniture	12,000	8,771
Veh.Components, Hardware	—	7
Office Equipment	3,000	958
Lab.Equip./Drugs	—	12
Utilities, Other Supplies	200	0
Office Supplies	19,000	14,922
Books Publications	20,000	32,618
Cloth,Personnel & Health	—	756
Drafting & Exhibits	—	—
	89,200	278,511
BRANCH TOTAL:	1,458,000	1,420,324

* Adjusted per Management Board Order

APPENDIX F SUMMARY OF NEGOTIATIONS 1986-87

Negotiations conducted in accordance with the Act	
Total Number of Negotiations Conducted by Boards and Teachers in Ontario	190
Number of Negotiations Not Requiring Formal Commission Assistance	98
Number of Fact Finders Assigned	80
Number of Situations where Mediator Assigned	65
Settlements By Voluntary Binding Arbitration	0
Settlements By Voluntary Final Offer Selection	0

NOTE: In some sets of negotiations both a fact finder and a mediator were assigned.